United Nations Convention on the Law of the Sea SPLOS/194

# Meeting of States Parties

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## Conditions of service and compensation for members of the International Tribunal for the Law of the Sea

### Adjustment of the remuneration of members of the International Tribunal for the Law of the Sea

**Note by the Tribunal**

## I. Remuneration

### A. Adjustment of the remuneration of the members of the Tribunal made in line with that of the members of the International Court of Justice

1. The level of remuneration of the members of the International Tribunal for the Law of the Sea was established by the fourth Meeting of States Parties in 1996. In that regard, the Meeting of States Parties decided on the principle of maintaining equivalence with the remuneration levels of judges of the International Court of Justice.[1] The maximum annual remuneration of a member of the Tribunal was fixed at 145,000 United States dollars, based on the comparator, which was the emoluments of a member of the International Court of Justice.

2. The emoluments of members of the Court have been reviewed by the General Assembly periodically since 1976. On 18 December 1998, the Assembly, in its resolution 53/214, set the annual salary of members of the Court at $160,000, effective 1 January 1999. Subsequently, in May 1999, the ninth Meeting of States Parties approved $160,000 as the maximum annual remuneration of the members of the Tribunal, effective 1 January 2000.[2]

3. The annual salary of members of the Court was revised to $170,080 on 13 April 2005 by the General Assembly in its resolution 59/282, effective 1 January 2005. In line with that revision, on 21 June 2005 the fifteenth Meeting of States

[1] SPLOS/WP.3/Rev.1, para. 17.
[2] SPLOS/44, para. 3.

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Parties decided, as an interim measure, to approve an adjustment of the maximum annual remuneration of the members of the Tribunal to the level of the emoluments of the members of the Court, that is, $170,080, effective 1 January 2005, as well as an adjustment of pensions in payment in accordance with article 7, paragraph 2, of the pension regulations for members of the Tribunal.[3]

4. The fifteenth Meeting of States Parties also decided to apply to the annual allowance and the special allowance of the members of the Tribunal, effective 1 July 2005, the same floor/ceiling mechanism as is applicable to the emoluments of the members of the Court, on the understanding that any adjustment made to the mechanism in respect of the Court would equally apply to the mechanism in respect of the Tribunal.[4]

## B. New salary system for the members of the International Court of Justice

5. On 3 April 2008, the General Assembly adopted decision 62/547 concerning the conditions of service and compensation for judges at international courts and tribunals. In that decision, the Assembly set, effective 1 April 2008, the annual net base salary of judges at the Court at $158,000, with a corresponding post adjustment multiplier equal to 1 per cent of the net base salary, to which would be applied the post adjustment multiplier for the Netherlands.[5]

6. In its decision, the General Assembly also established the adjustment mechanism as proposed by the Secretary-General in his report on the conditions of service and compensation for officials other than Secretariat officials: members of the International Court of Justice and judges and ad litem judges of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (A/62/538), paragraph 77 of which reads as follows:

> Should the above proposal be considered [...] the Secretary-General would also propose that **on the occasion of future revisions to the base scale applicable to staff in the Professional and higher categories** that are effected through the consolidation of post adjustment multiplier points into the base scale with a corresponding re-adjustment in the post adjustment multipliers, **the annual base salary of the members of the International Court of Justice and the judges and ad litem judges of the Tribunals also be adjusted by the same percentage and at the same time.** [*emphasis added*]

Accordingly, future revisions to the annual base salary of judges at the International Court of Justice will be harmonized with revisions to be made to the base salary scale for staff in the Professional and higher categories. Pursuant to resolution 63/251 of the General Assembly, the base salary scale for staff in the Professional and higher categories was consolidated at 2.33 per cent multiplier points effective 1 January 2009. Consequently, a corresponding increase in the net base salary of judges as of the same date and by the same percentage would apply. Accordingly, the net base salary of judges was adjusted from the previous level of $158,000 to $161,681 with effect from 1 January 2009.

[3] SPLOS/132, para. 1.

[4] SPLOS/133, para. 1.

[5] Paragraph (b) of decision 62/547.

## C. Proposed change in the salary system for the members of the Tribunal

7. In the light of the aforementioned decision of the General Assembly, the Tribunal proposes that the Meeting of States Parties consider an adjustment to the annual remuneration of the members of the Tribunal to reflect the revision of the emoluments of members of the Court. The Tribunal's proposal also includes a recommendation that the Meeting be invited to make the adjustment effective from 1 January 2009. In this regard, a draft decision on adjustment of the remuneration of members of the Tribunal is contained in annex II.

8. Should the Meeting of States Parties approve, effective 1 January 2009, a revision of the annual net base salary of judges to $161,681, with a corresponding post adjustment multiplier equal to 1 per cent of the net base salary, to which the post adjustment multiplier for Hamburg, Germany, would be applied, the remuneration of judges would be expected to increase by an average of 7.12 per cent compared with that calculated under the floor/ceiling mechanism (see annex I). Accordingly, an additional appropriation of €276,600 would be required to cover the increases in annual and special allowances for members of the Tribunal and compensation for judges ad hoc for the period from January 2009 to December 2010.

9. This sum is to be additional to the appropriations approved in the budget of the Tribunal for the biennium 2009-2010. For this purpose, it is proposed that the Tribunal be authorized to use part of the cash surplus from the 2007-2008 budget to finance an additional appropriation in the amount of €276,600 required to implement the new salary system for judges of the Tribunal for the period January 2009 to December 2010. This point is also addressed in the draft decision referred to in paragraph 7 above.

10. Pursuant to the decision of the fourth Meeting of States Parties, the annual remuneration of the judges of the Tribunal consists of three elements: annual allowance, special allowance, and daily subsistence allowance. Under the new system, these three elements would be subject to the following parameters fixed for March 2009 by the United Nations: (1) the post adjustment multiplier applicable to Hamburg; (2) the exchange rate between the United States dollar and the euro; and (3) the daily subsistence allowance applicable for Hamburg. As an illustration, the remuneration of the judges for March 2009, based on those parameters, would be as follows:

(a) Annual allowance: payable monthly and corresponding to one third of the annual remuneration

$[\$161,681/3/12\ (1 + 0.484^{6})] \times 0.782^{7} = €5,211.91;$

(b) Special allowance: payable for each day that a judge is engaged on the business of the Tribunal and up to the limit of one third of the annual remuneration

$[\$161,681/3/220\ (1 + 0.484)] \times 0.782 = €284.29;$

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[6] Post adjustment multiplier applicable for Hamburg in March 2009.

[7] Exchange rate between the United States dollar and the euro in March 2009.

On the basis of the post adjustment multiplier and the exchange rate for March 2009, the total amount of one third of the annual remuneration would be set at €62,542.92;

(c) Daily subsistence allowance: payable for each day that a judge is present at the seat of the Tribunal during the meetings of the Tribunal

€247[8] x 1.4[9] = €345.8.

# II. Pension

## A. Modifications to the pension scheme for the members of the International Court of Justice

11. On 3 April 2008, the General Assembly approved the annual remuneration of members of the International Court of Justice at a base salary of $158,000 plus post adjustment. In paragraph 20 of his report A/62/538/Add.2, the Secretary-General indicated that it appeared appropriate that the Assembly should take note of that reduction in the annual base salary and its effect on the calculation of pensions, and propose a transitional measure or a method of calculation that would, in its view, be appropriate under such circumstances. In the report, the Secretary-General made several proposals aimed at avoiding a decrease in the pension to be paid to the members of the International Court of Justice.

12. The report of the Secretary-General was considered by the Advisory Committee on Administrative and Budgetary Questions, which transmitted its recommendation to the General Assembly in its report A/63/570.[10] The Assembly examined the conclusions and recommendations of the Advisory Committee in respect of the pension scheme for the members of the International Court of Justice. By its resolution 63/259, the Assembly endorsed the following recommendations:

(a) The pension scheme for the members of the International Court of Justice should remain a defined-benefit scheme;

(b) The pension scheme should remain non-contributory;

(c) The retirement benefit of the members of the International Court of Justice should continue to be based on salaries and should be **50 per cent of the annual net base salary (excluding post adjustment), or $85,040, whichever amount is higher, by reference to nine years of service** [*emphasis added*];

(d) The level of pension should be determined by reference to years of service rather than a term of office;

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[8] Daily subsistence allowance for Hamburg in March 2009.

[9] Pursuant to section 3, Rates for high-level officials, of United Nations administrative instruction ST/AI/1998/3 as amended by ST/AI/2003/9, which provides that "United Nations officials other than staff members who are at a rank equivalent to Assistant Secretary-General or above shall be paid daily subsistence allowance at the rate promulgated by the International Civil Service Commission, plus 40 per cent", judges are entitled to 140 per cent of the daily subsistence allowance fixed by the United Nations.

[10] See resolution 63/259, part I, para. 3.

(e) A member of the International Court of Justice who is re-elected should receive one three-hundredth of his or her retirement benefit for each further month of service beyond nine years, **up to a maximum pension of two thirds of annual net base salary (excluding post adjustment)** [*emphasis added*];

(f) The retirement age should remain at 60 years of age;

(g) The actuarial reduction factor, at a rate of 0.5 per cent per month, should continue to be applied in the case of early retirement prior to age 60;

(h) The level of the retirement benefit should be adjusted on the occasion of increases in the annual net base salary of the members of the International Court of Justice;

(i) Pensions in payment should also be adjusted on the occasion of increases in the annual net base salary of the members of the International Court of Justice.

## B. Pension scheme for the members of the Tribunal

13. As is the case with the pension for the members of the International Court of Justice, the pension for the judges of the Tribunal is also linked to their annual salary, as provided for in article 1, paragraph 2, of the Pension Scheme Regulations for members of the Tribunal.[11]

14. The amount of the annual pension for a member of the Tribunal who has served for nine or more years is one half of the annual salary.[12] "Annual salary" is defined as follows: **the total remuneration,** exclusive of any other allowance, fixed by the Meeting of States Parties and received by the member until he/she ceased to hold office, **averaged in each case over the whole period of service**[13] [*emphasis added*]. On the other hand, a member who has served for less than nine years receives that proportion of the annual pension which the number of months of his/her actual service bears to 108.[14]

15. As was decided by the fourth Meeting of States Parties, the annual remuneration of judges other than the President consists of three elements (see SPLOS/8 and SPLOS/WP.3/Rev.1): (a) an annual allowance; (b) a special allowance; and (c) a subsistence allowance (see para. 10 above). The sum of these three elements constitutes the total remuneration received by a member of the Tribunal and corresponds to his/her annual salary defined in article 5 of the Pension Scheme Regulations for the purpose of calculating the amount of his/her pension.

16. Under the new salary system, the annual (pensionable)[15] remuneration would be reduced from $170,080 to $161,681. Accordingly, under the Pension Scheme Regulations, the monthly pensionable annual allowance for judges of the Tribunal will be decreased from $4,724 to $4,491, and their daily pensionable special allowance from $258 to $244.97. The new system, however, would not have an impact on the amount of remuneration paid in the form of daily subsistence

[11] See SPLOS/47.

[12] Pension Scheme Regulations, article 1, para. 2(a).

[13] Ibid, article 5.

[14] Ibid, article 1, para. 2(b).

[15] Remuneration without the application of the post adjustment multiplier.

allowance. Accordingly, the actual amount of the daily subsistence allowance paid to judges would continue to be used as the pensionable allowance.

17. In the case of the International Court of Justice, it was decided that the pensionable remuneration would continue to be based upon the previous level of remuneration, fixed at $170,080 (see para. 12 above) in order to avoid any decrease in pension for its sitting members as well as for the current pensions in payment. It is proposed that the same approach be followed with respect to pensionable remuneration for the members of the Tribunal. This means that the components of the pensionable remuneration will consist of the following elements:

- $170,080/3/12 = US$ 4,724.44: monthly pensionable annual allowance
- $170,080/3/220 = US$ 257.70: daily pensionable special allowance
- Actual amount of daily subsistence allowance.

Accordingly, as in the case of the Court, it is proposed that the retirement benefit of the members of the Tribunal should be 50 per cent of the annual salary (excluding post adjustment), or 50 per cent of the annual salary based on the level of remuneration decided by the fifteenth Meeting of States Parties in June 2005, whichever amount is higher.

18. As decided in the case of the International Court of Justice, with regard to the retirement benefit payable for service beyond nine years, it is also proposed that a member of the Tribunal who is re-elected should receive one three-hundredth of his or her retirement benefit for each further month of service beyond nine years, up to a maximum pension of two thirds of the annual net base salary, excluding post adjustment.

19. As regards the current pension in payment, based on the maximum annual remuneration of $170,080, it is proposed that the current system continue to apply until such time as the amount of maximum remuneration ($170,080) is overtaken by a newly revised maximum annual remuneration.

# Annex I

## Changes in salary under the new system

### I. For judges at the International Court of Justice

1. As shown in table 1 below, during the period from January to March 2009, judges at the International Court of Justice received, on average, an additional €1,098 per month, which represents a 7.54 per cent increase compared with the monthly salary they received under the previous floor/ceiling mechanism applicable until March 2008.

Table 1

| *Month* | *Base salary in United States dollars* | *Post adjustment multiplier (The Hague)* | *Salary in United States dollars* | *Exchange rate* | *Salary in euros (A)* | *Salary in euros with application of floor/ceiling mechanism (B)* | *A-B* |
|---|---|---|---|---|---|---|---|
| January 2009 | 13 473.42 | 53.5 | 20 681.70 | 0.756 | 15 635.37 | 14 558.85 | 1 076.52 |
| February 2009 | 13 473.42 | 52.4 | 20 533.49 | 0.762 | 15 646.52 | 14 558.85 | 1 087.67 |
| March 2009 | 13 473.42 | 48.9 | 20 061.92 | 0.782 | 15 688.42 | 14 558.85 | 1 129.57 |

### II. For judges and the President of the Tribunal

2. As shown in tables 2 and 3 below, from January to March 2009, judges of the Tribunal would have received an average of €345.36 per month more and the President an average of €1,036.06 per month more, which represents a 7.12 per cent increase compared with the monthly salary under the current system with the application of the floor/ceiling mechanism as fixed in SPLOS/132 and SPLOS/133.

Table 2
**Judges**

| *Month* | *Base salary in United States dollars* | *Post adjustment multiplier (Hamburg)* | *Salary in United States dollars* | *Exchange rate* | *Salary in euros (A)* | *Salary in euros with application of floor/ceiling mechanism (B)* | *A-B* |
|---|---|---|---|---|---|---|---|
| January 2009 | 4 491.14 | 52.8 | 6 862.46 | 0.756 | 5 188.02 | 4 852.94 | 335.08 |
| February 2009 | 4 491.14 | 51.8 | 6 817.55 | 0.762 | 5 194.97 | 4 852.94 | 342.03 |
| March 2009 | 4 491.14 | 48.4 | 6 664.85 | 0.782 | 5 211.91 | 4 852.94 | 358.97 |

Table 3
**President**

| *Month* | *Base salary in United States dollars* | *Post adjustment multiplier (Hamburg)* | *Salary in United States dollars* | *Exchange rate* | *Salary in euros (A)* | *Salary in euros with application of floor/ceiling mechanism (B)* | *A-B* |
|---|---|---|---|---|---|---|---|
| January 2009 | 13 473.42 | 52.8 | 20 587.39 | 0.756 | 15 564.07 | 14 558.85 | 1 005.22 |
| February 2009 | 13 473.42 | 51.8 | 20 452.65 | 0.762 | 15 584.92 | 14 558.85 | 1 026.07 |
| March 2009 | 13 473.42 | 48.4 | 19 994.56 | 0.782 | 15 635.75 | 14 558.85 | 1 076.90 |

## III. Special allowance under the new system

3. Under the new system, the special allowance for each day that judges are engaged on the business of the Tribunal would have been increased by an average of €18.83 per day from January 2009 to March 2009, as shown in table 4 below. This also represents an average increase of 7.12 per cent in the special allowance. This will be applied to the amount of special allowance from the 2009-2010 budget as approved by the Meeting of States Parties (SPLOS/180).

Table 4

| *Month* | *Base salary in United States dollars* | *Post adjustment multiplier (Hamburg)* | *Salary in United States dollars* | *Exchange rate* | *Salary in euros (A)* | *Salary in euros with application of floor/ceiling mechanism (B)* | *A-B* |
|---|---|---|---|---|---|---|---|
| January 2009 | 244.97 | 52.8 | 347.31 | 0.756 | 282.98 | 264.71 | 18.27 |
| February 2009 | 244.97 | 51.8 | 371.86 | 0.762 | 283.36 | 264.71 | 18.65 |
| March 2009 | 244.97 | 48.4 | 363.54 | 0.782 | 284.29 | 264.71 | 19.58 |

## IV. Requirement for the implementation of the new salary system

4. As shown above, it is expected that under the new salary system, judges' allowances will be increased by an average of 7.12 per cent. That would lead to the requirement of an additional appropriation in the amount of €276,600 for the period from 1 January 2009 to 31 December 2010. For that purpose, it is proposed that the Tribunal be authorized to use part of the cash surplus from the 2007-2008 budget to finance an additional appropriation in the amount of €276,600 required to implement the new salary system for judges of the Tribunal for the period from January 2009 to December 2010.

# Annex II

## Draft decision on adjustment of the remuneration of members of the International Tribunal for the Law of the Sea and their pension

*The Meeting of States Parties,*

*Considering* that, in respect of the level of remuneration of the members of the International Tribunal for the Law of the Sea ("the Tribunal"), the fourth Meeting of States Parties decided to maintain equivalence with the remuneration levels of members of the International Court of Justice,

*Considering also* that the General Assembly, in its decision 62/547 of 3 April 2008, decided to set, effective 1 April 2008, the annual net base salary of the members of the International Court of Justice at 158,000 United States dollars, with a corresponding post adjustment multiplier equal to 1 per cent of the net base salary, to which would be applied the post adjustment multiplier for the Netherlands, as appropriate, taking into account the adjustment mechanism as proposed by the Secretary-General in paragraph 77 of his report A/62/538,

*Considering further* that, as provided for in paragraph 77 of the report of the Secretary-General A/62/538, the net base salary for judges of the International Court of Justice was further revised to $161,681 effective 1 January 2009 in line with the consolidation of 2.33 per cent multiplier points in the base salary scale for staff in the Professional and higher categories,

*Considering* that in paragraph 77 of the Secretary-General's report A/62/538, the Secretary-General proposed that "on the occasion of future revisions to the base scale applicable to staff in the Professional and higher categories that are effected through the consolidation of post adjustment multiplier points into the base scale with a corresponding readjustment in the post adjustment multipliers, the annual base salary of the members of the International Court of Justice ..." also be adjusted by the same percentage and at the same time,

*Considering also* that the General Assembly, in its resolution 63/259 of 24 December 2008, endorsed, in respect of the pension for the members of the International Court of Justice, the conclusions and recommendations of the Advisory Committee on Administrative and Budgetary Questions contained in the Committee's report A/63/570,

1. *Decides* to set, effective 1 January 2009, the annual net base salary of the members of the Tribunal at $161,681, with a corresponding post adjustment multiplier equal to 1 per cent of the net base salary, to which would be applied the post adjustment multiplier for Hamburg, as appropriate, taking into account the adjustment mechanism as proposed by the Secretary-General of the United Nations in paragraph 77 of his report A/62/538;

2. *Also decides* that on the occasion of future revisions to the base scale applicable to staff of the United Nations in the Professional and higher categories that are effected through the consolidation of post adjustment multiplier points into the base scale with a corresponding readjustment in the post adjustment multipliers, the annual base salary of the members of the Tribunal also be adjusted by the same percentage and at the same time;

3. *Authorizes* the Tribunal to use part of the cash surplus from the 2007-2008 budget to finance an additional appropriation in the amount of €276,600 required to implement the new salary system for the members of the Tribunal referred to in paragraph 1 above for the period January 2009 to December 2010;

4. *Decides* that the retirement benefit of the members of the International Tribunal shall continue to be based on 50 per cent of the annual salary (excluding post adjustment) as defined in the Pension Scheme Regulations for the members of the Tribunal, or 50 per cent of the annual salary based on the level of remuneration decided by the fifteenth Meeting of States Parties in June 2005, whichever amount is higher, by reference to nine years of service;

5. *Also decides* that a member of the International Tribunal for the Law of the Sea who is re-elected should receive one three-hundredth of his or her retirement benefit for each further month beyond nine years, up to a maximum pension of two thirds of the annual net base salary, excluding post adjustment;

6. *Further decides* that the current pension in payment which has been determined on the basis of the maximum annual remuneration of $170,080 will continue to be based upon this amount;

7. *Requests* the International Tribunal for the Law of the Sea to make the necessary revisions to article 1, paragraph 2, of the Pension Scheme Regulations for members of the International Tribunal for the Law of the Sea;

8. *Requests* the Registrar to report to the Meeting of States Parties on action taken pursuant to the above decisions.

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# Meeting of States Parties

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**Nineteenth Meeting**
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## Letter dated 20 April 2009 from the Chairman of the Commission on the Limits of the Continental Shelf addressed to the President of the nineteenth Meeting of States Parties

1. In my capacity as Chairman of the Commission on the Limits of the Continental Shelf, I wish to inform you about the progress of work of the Commission since the eighteenth Meeting of States Parties, in June 2008.

2. It may be recalled that the Commission was established to perform two specific functions, as set out in article 3 (1) of annex II to the Convention:

(a) To consider the data and other material submitted by coastal States concerning the outer limits of the continental shelf in areas where those limits extend beyond 200 nautical miles, and to make recommendations in accordance with article 76 and the Statement of Understanding adopted on 29 August 1980 by the Third United Nations Conference on the Law of the Sea;

(b) To provide scientific and technical advice, if requested by the coastal States concerned, during the preparation of the data referred to in subparagraph (a) above.

3. Since the eighteenth Meeting of States Parties, the Commission has held its twenty-second and twenty-third sessions at United Nations Headquarters. The twenty-second session was held from 11 August to 12 September 2008. The resumed part of the twenty-second session was held from 1 to 12 December 2008. The twenty-third session was held from 2 March to 9 April 2009. Details of the work of the Commission at its twenty-second, resumed twenty-second and twenty-third sessions are contained in the statements of the Chairman on the progress of work (CLCS/60 and CLCS/62).

### Twenty-second session of the Commission

*Organizational and other matters at the session*

4. At the twenty-second session, pursuant to rule 10 of the rules of procedure, one member of the Commission, George Jaoshvili, who had not attended any session following his election as a member of the Commission, made the solemn declaration

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in writing and delivered it to the Director of the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs.

*Consideration of submissions*

5. During the twenty-second session, the Commission and its Subcommissions continued their consideration of the joint submission made by France, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland, as well as the submissions made, respectively, by Norway and by France in respect of the areas of French Guiana and New Caledonia, and held meetings with the respective delegations. The Subcommission established for the consideration of the submission made by Mexico held its first official meeting, during which it undertook a preliminary analysis of the submission.

6. On 8 May 2008, the Commission received a new submission by Barbados and on 9 May 2008 a new submission by the United Kingdom of Great Britain and Northern Ireland in respect of Ascension Island. The Commission decided that each submission would be examined by way of subcommission, to be established at a later session.

7. Also at its twenty-second session, the Commission completed its consideration of and adopted the "Recommendations of the Commission on the Limits of the Continental Shelf in regard to the submission made by New Zealand on 19 April 2006".

**Twenty-third session of the Commission**

*Consideration of submissions*

8. The Commission continued the examination of the joint submission by France, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland as well as the submissions made by Norway, France and Mexico. The Subcommissions that had been established at previous sessions to examine those submissions continued the examination of the submissions and reported to the Commission on the work that they had carried out. In particular, the Subcommission established to consider the joint submission made by France, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland and the Subcommissions established to consider the submissions made by Norway and Mexico submitted their recommendations to the Commission. Following the submission of the recommendations by the Subcommission, the Commission invited the respective delegations to address the Commission.

9. On 24 March 2009, the delegation of the four coastal States made a presentation on matters related to their submission to the plenary of the Commission. The Commission then completed its consideration of and adopted the "Recommendations of the Commission on the Limits of the Continental Shelf in regard to the joint submission made by France, Ireland, Spain and the United Kingdom of Great Britain and Northern Ireland in respect of the area of the Celtic Sea and the Bay of Biscay on 19 May 2006".

10. On 25 March 2009, the delegation of Norway made a presentation on matters related to its submission to the plenary of the Commission. On 27 March 2009, the Commission completed its consideration of and adopted the "Recommendations of the Commission on the Limits of the Continental Shelf in regard to the submission

made by Norway in respect of areas in the Arctic Ocean, the Barents Sea and the Norwegian Sea on 27 November 2006".

11. On 31 March 2009, the delegation of Mexico made a presentation on matters related to its submission to the plenary of the Commission. The Commission then completed its consideration of and adopted the "Recommendations of the Commission on the Limits of the Continental Shelf in regard to the submission made by Mexico in respect of the Western Polygon in the Gulf of Mexico on 13 December 2007".

12. The Commission had received a submission on 16 June 2008 from Indonesia and on 12 November 2008 from Japan, and on 1 December 2008 a joint submission from Mauritius and Seychelles. The submissions were presented by the respective delegations during the plenary part of the twenty-third session. The Commission decided that the submissions would be examined by way of subcommission. The Commission then proceeded to establish three new Subcommissions to consider the submissions made by Barbados, the United Kingdom of Great Britain and Northern Ireland (in respect of Ascension Island) and Indonesia. With regard to the latter, a discussion was held within the Commission on the effect of establishing more than three active subcommissions and the practical difficulties with regard to the availability of some members simultaneously for the work of different subcommissions. The Commission decided that, in order to ensure expediency and efficiency in case of a large number of submissions, another subcommission may be established as an exception to the general rule contained in the rules of procedure, according to which unless the Commission decides otherwise, only three subcommissions are to function simultaneously while considering submissions (rule 51 (4 bis). The new Subcommissions met during the twenty-third meeting, following the end of the plenary session.

*Other matters*

13. The Commission also prepared a response to the request of the Government of Brazil through a note verbale dated 24 July 2008, for clarifications from the Commission in relation to the "Recommendations of the Commission on the Limits of the Continental Shelf in regard to the submission made by Brazil on 17 May 2004". As decided by the Commission at its twenty-second session, the response was based on a draft prepared by the subcommission established to examine the submission made by Brazil.

14. At the twenty-third session, the Commission addressed the practical implications of the growing number of upcoming submissions on the organization of work of its future sessions, in particular in relation to the inclusion of the presentation of such new submissions on the provisional agenda in conformity with annex III, section II.2, of the rules of procedure. It was decided that the presentation of all new submissions would be included in the plan of work in accordance with annex III, section II.2, unless the States concerned intended to make them at a later stage when such presentations would be more practical and useful to the work of the Commission in view of the queue system provided for under rule 51 (4 ter) of the rules of procedure. The postponement of a presentation would not affect the position of the submission in the queue.

15. In response to the request in paragraph 3 of decision SPLOS/183, at the twenty-third session the Commission decided to make available on its website two

lists of publicly available scientific and technical data relevant to the preparation of submissions to the Commission, compiled by its Scientific and Technical Advice Committee and Training Committee, with a disclaimer indicating that the Commission takes no position as to the scientific and technical data or the general content of the listed websites.

16. I wish to recall that, at its twenty-second session,[1] the Commission decided to establish a working group composed of Messrs. Brekke, Carrera, Jaafar, Symonds and Tamaki, Chairmen of past and present Subcommissions, to prepare a draft proposal on a standardized format for the recommendations to be considered at the twenty-third session of the Commission.

17. At the twenty-third session, the working group prepared a standardized format and presented it to the Commission. The Commission adopted, as its internal working document, the proposed standardized format, with some amendments, on the understanding that this would constitute a template that should be used by the subcommissions to expedite the preparation of all future recommendations.

18. The Commission decided to establish a list of the members of the Commission who have provided or are providing scientific and technical advice to coastal States. This list would contain information, to be made available by members of the Commission and maintained with the support of the Secretariat, concerning advice provided by them to coastal States either in the discharge of the advisory function of the Commission in accordance with article 3, paragraph 1 (b), of annex II to the Convention, or in any other capacity. The list would constitute an internal reference document that would assist the Commission, inter alia, in the establishment of Subcommissions as provided for by chapter X of the rules of procedure.

19. Lastly, I wish to draw your attention to the fact that at the twenty-second session, in view of the increasing workload of the Commission and the number of weeks that the members are required to spend in New York, the Commission addressed again the issue of expenses incurred by its members, including those relating to medical assistance and insurance coverage, as well as loss of income resulting from an extended stay in New York, away from normal work at home. The Commission had established an intersessional working group to prepare a draft proposal for consideration by the Commission at its next session. On the basis of a draft presented by an intersessional working group, the Commission adopted a draft decision for consideration by the nineteenth Meeting of States Parties, to clarify the nature and extent of expenses to be covered by the nominating State pursuant to article 2, paragraph 5, of annex II to the Convention (see annex). In this context, the Commission would also like to recall that in the past, a number of attempts were made before the Meeting of States Parties to consider more favourable institutional arrangements for the Commission. This is still a matter that needs to be addressed over the long term.

*Future work of the Commission*

20. The Commission decided that it would resume its twenty-third session from 3 to 7 August 2009. During the resumed session, the Subcommission established to examine the submission made by Barbados would meet. The twenty-fourth session of the Commission will be held from 10 August to 11 September 2009, on the

[1] See CLCS/60, para. 60.

understanding that the periods from 24 August to 4 September would be for plenary meetings and that the periods from 10 to 21 August and from 8 to 11 September would be used for the technical examination of submissions at the Geographic Information System laboratories and other technical facilities of the Division for Ocean Affairs and the Law of the Sea. The Subcommission established to examine the submission made by France would meet from 17 to 21 August; the Subcommission established to examine the submission made by Barbados would meet from 10 to 14 August; the Subcommission established to examine the submission made by the United Kingdom of Great Britain and Northern Ireland (in respect of Ascension Island) would meet from 10 to 21 August and from 8 to 11 September; and the Subcommission established to examine the submission made by Indonesia would meet from 10 to 21 August and from 8 to 11 September.

21. The Secretariat informed the Commission about the tentative dates for the sessions to be held in 2010 and 2011, on the understanding that these dates and the provision of conference services are subject to approval by the General Assembly. The tentative dates for the plenary parts of the sessions of the Commission in 2010 and 2011 are as follows: twenty-fifth session, from 5 to 16 April 2010; twenty-sixth session, from 16 to 27 August 2010; twenty-seventh session, from 28 March to 8 April 2011; and twenty-eighth session, from 8 to 19 August 2011.

22. In recent years, the workload of the Commission has substantially increased. Furthermore, with the large number of submissions expected by May 2009, the workload before the Commission will increase manifold. In this context, on behalf of the Commission, I would like to express our gratitude to the Meeting of States Parties for its continued support for the work of the Commission.

23. On behalf of the Commission, I would also like to express gratitude to the Division for Ocean Affairs and the Law of the Sea for the high standard of secretariat services it renders to the Commission.

24. I would like to request that the present letter be circulated as a document of the nineteenth Meeting of States Parties.

(*Signed*) Alexandre Tagore Medeiros de **Albuquerque**
Chairman of the Commission on the Limits of the Continental Shelf

## Annex

### Draft resolution for the nineteenth Meeting of States Parties

*The Meeting of States Parties*,

*Reaffirming* the importance of the work of the Commission on the Limits of the Continental Shelf for coastal States and the international community as a whole,

*Mindful* of the anticipated workload of the Commission owing to an increasing number of submissions, placing additional demands on its members,

*Desirous* to ensure that the Commission can perform its functions under the United Nations Convention on the Law of the Sea ("the Convention") effectively and maintain its high level of quality and expertise,

*Acknowledging* the efforts of the Commission to examine submissions in a timely manner and that despite the current financial constraints, eight recommendations for coastal States have been issued to date,

*Underlining* the need to ensure that all members of the Commission can fulfil their duties effectively, including their full participation in the sessions of the Commission and the meetings of the subcommissions,

*Recognizing* that the average amount of work forecast for members of the Commission for the foreseeable future will require their attendance at United Nations Headquarters for at least two sessions of up to two months each per year, and therefore that it is crucial that the members of the Commission have guaranteed financial support for their presence for up to four months per year in New York, while the job positions and salaries of members in their home countries need to be retained and guaranteed, as appropriate, without prejudice to their career, whereas for other members, the loss of their earnings needs to be covered so that their financial well-being is not affected,

1. *Decides* to continue to address the issues related to the workload of the Commission and funding for its members attending the sessions of the Commission and the meetings of the subcommissions as a matter of priority;

2. *Calls upon* States Parties whose experts are serving on the Commission to do their utmost to ensure the full participation of those experts in the work of the Commission, in accordance with the Convention;

3. *Clarifies* that the expenses referred to in paragraph 5, article 2, of annex II to the Convention[a] shall include the following items:

(a) Airline tickets and travel insurance;[b]

(b) Per diem;

(c) Accommodation;

(d) Local transportation;

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[a] "5. The State Party which submitted the nomination of a member of the Commission shall defray the expenses of that member while in performance of Commission duties".

[b] Normally, the items relating to airline tickets, per diem, accommodation and local transportation are covered under the existing financial rules and regulations of the nominating States.

(e) Reimbursement for loss of income;[c]

(f) Medical insurance;[d]

(g) Appropriate computer hardware and software for access to secure Internet sites of the Commission;[e]

(h) Other reimbursable expenses, including telephone calls.

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[c] A number of members of the Commission are no longer employed by their respective Governments; they are either employed in the private sector or self-employed. For the latter category, the time they spend in New York for the work of the Commission has to be compensated for because of their loss of business opportunities and/or loss of regular income. It is recommended that such members of the Commission be compensated for their loss of income amounting to an equivalency at the D-1 level salary scale, prorated by twice the length of time spent in New York. As per the current International Civil Service Commission salary scale, this scale ranges from $132,609 to $154,402 per year (ST/IC/2009/6, dated 15 January 2009).

[d] In the absence of any financial rule relating to medical insurance or coverage for members of the Commission serving in New York, it is recommended that the current United Nations medical and dental insurance plans be applied (ST/IC/2008/29, dated 12 June 2008).

[e] By the nature of the work and the confidentiality of the material handled by members of the Commission, it would be wise for each member to be provided with appropriate computer hardware and software for access to secure Internet sites of the Commission.

United Nations Convention on the Law of the Sea SPLOS/196

# Meeting of States Parties

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## Proposal for the inclusion of a supplementary item in the agenda of the nineteenth Meeting of States Parties

### Note verbale dated 21 May 2009 from the Permanent Mission of China to the United Nations addressed to the Secretary-General

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with respect to the forthcoming nineteenth Meeting of States Parties to the United Nations Convention on the Law of the Sea, has the honour to propose, in accordance with rule 7 of the rules of procedure, the inclusion in the agenda of a supplementary item entitled "International Seabed Area as the common heritage of mankind and article 121 of the United Nations Convention on the Law of the Sea", and to request that the present note and attached explanatory note be circulated.

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## Annex

### Explanatory note

1. By 13 May 2009, the Commission on the Limits of the Continental Shelf had received 50 submissions and 39 preliminary information from relevant coastal States concerning the outer limits of the continental shelf beyond 200 nautical miles, in accordance with the provisions of the United Nations Convention on the Law of the Sea and relevant decisions of the Meeting of States Parties to the Convention. The seabed and ocean floor and subsoil beyond the continental shelf of coastal States are the International Seabed Area as the common heritage of mankind. Therefore, to determine the outer limits of the extended continental shelf is at the same time to clarify the scope of the Area, which is of great importance to the overall interests of the international community in the Area.

2. Article 300 of the Convention expressly stipulates that "States Parties shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights, jurisdiction and freedom recognized in this Convention in a manner which would not constitute an abuse of right". Therefore, in submissions concerning the outer limits of the continental shelf, the coastal States should comply fully with the Convention, taking into account the overall interests of the international community, and should not interpret the Convention in a biased way, nor put their own interests above the overall interests of the international community, nor encroach upon the Area as the common heritage of mankind.

3. In the submissions received by the Commission, most States have abided by the provisions of the Convention, and made serious efforts to safeguard the overall interests of the international community when claiming their rights. However, there is also some case in which the Convention is not abided by, for example, claims on the continental shelf within and beyond 200 nautical miles with an isolated rock in the ocean as base point. Recognition of such claim will set a precedent which may lead to encroachment upon the high seas and the Area on a larger scale. Therefore, the international community should express serious concerns on this issue.

4. In accordance with Article 121(3) of the Convention, rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf. How to implement this provision relates to the interpretation and application of important principles of the Convention, and the overall interests of the international community, and is a key issue for the proper consideration of relevant submission concerning the outer limits of the continental shelf, and the safeguarding of the common heritage of mankind.

5. China holds that this meeting of the States Parties to the Convention should be taken as an opportunity to consider the issue of claiming extended continental shelf with a rock as base point and its legal implication under Article 121 of the Convention, and to discuss how to strengthen the protection of the Area as the common heritage of mankind. In this regard, some appropriate guidelines are needed for the work of the international bodies established under the Convention.